

ADMINISTRATIVE PANEL DECISION

Fremaux Delorme v. Gsgtrt Rgeqqi
Case No. D2023-0016

1. The Parties

The Complainant is Fremaux Delorme, France, represented by Plasseraud IP, France.

The Respondent is Gsgtrt Rgeqqi, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <delormesale.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 3, 2023. On January 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 9, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Whois Agent, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 10, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on January 11, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 1, 2023.

The Center appointed Kaya Köklü as the sole panelist in this matter on February 14, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is internationally active in the field of luxury home linens. It is based in France and its roots date back to the year 1875.

The Complainant is the owner of a large number of trademark registrations for its YVES DELORME word and figurative mark, including the International Trademark Registration No. 690659, registered on December 15, 1997, designating China and many other jurisdictions, and covering protection for goods in class 18, 20, 24 and 25 (Annex 7 to the Complaint).

The Complainant further operates its main website at <yvesdelorme.com>.

The Respondent is reportedly located in China.

The disputed domain name was registered on June 22, 2022.

The disputed domain name resolves to a website prominently featuring the Complainant's YVES DELORME trademark and allegedly offering the Complainant's home linens to drastically discounted prices. The look and feel as of the associated website cause the false impression that it is operated or at least authorized by the Complainant (Annex 6 to the Complaint).

5. Parties' Contentions

A. Complainant

The Complainant requests the transfer of the disputed domain name.

The Complainant is of the opinion that the disputed domain name is confusingly similar to its YVES DELORME trademark.

It further argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In addition, the Complainant is convinced that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

A. Identical or Confusingly Similar

To begin with, the Panel confirms that the Complainant has satisfied the threshold requirement of having relevant trademark rights. As evidenced in the Complaint, the Complainant is the owner of the YVES DELORME trademark, which has been first registered many years ago and also covers protection in China, where the Respondent is reportedly located.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's YVES DELORME trademark. The disputed domain name comprises a significant part of the trademark in combination with the term "sale". As stated at sections 1.7 and 1.8 of the [WIPO Overview 3.0](#), where a trademark is recognizable within the disputed domain name, the addition of other terms would generally not prevent a finding of confusing similarity. In the present case, the use of a significant part of the Complainant's trademark in combination with the term "sale", does, in view of the Panel, not serve to avoid a finding of confusing similarity between the disputed domain name and the Complainant's YVES DELORME trademark.

In view of the above, the Panel is satisfied that the Complainant has met the requirements under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of proving a negative, in particular as the evidence needed to show the Respondent's rights or legitimate interests is primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name to meet the requirements of paragraph 4(a)(ii) of the Policy. *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests, particularly no license or alike to use the Complainant's YVES DELORME trademark in a confusingly similar way within the disputed domain name.

In the absence of a Response, the Respondent has failed to demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or provide any other evidence of a right or legitimate interest in the disputed domain name.

There is particularly no doubt that the Respondent was well aware of the Complainant and its YVES DELORME trademark before registering and using the disputed domain name. The Panel is convinced that the Respondent deliberately has chosen the disputed domain name to cause confusion with the Complainant and its home linen products among Internet users. Also, the Panel notes that the nature of the disputed domain name along with the content of the website (reproducing the Complainant's YVES DELORME trademark in its entirety), indicates the Respondent's intention to create a risk of affiliation or association with

the Complainant and its mark. It is obvious to the Panel that the disputed domain name is used to impersonate the Complainant, which results in an illicit use that can never confer rights or legitimate interests upon the Respondent. [WIPO Overview 3.0](#), section 2.13.

Bearing all this in mind, the Panel does also not see any basis for assessing a *bona fide* offering of goods or services by the Respondent.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel believes that the Respondent deliberately attempted to create a likelihood of confusion among Internet users for illegitimate purposes, particularly for the following reasons.

At the date of registration of the disputed domain name, the Respondent was apparently well aware of the Complainant and its YVES DELORME trademark. It is obvious to the Panel, that the Respondent has deliberately chosen the disputed domain name to target and mislead Internet users. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

Additionally, the Panel finds that the Respondent is using the disputed domain name in bad faith. The Panel particularly notes that the disputed domain name resolves to a website falsely purporting to be operated by the Complainant or at least with its authorization, apparently for the purpose of selling counterfeit products to radically cheaper prices than usually asked for the original YVES DELORME home linen products (Annex 6 to the Complaint). In addition, the Respondent has not published any visible disclaimer on the website associated to the disputed domain name to explain that there is no existing relationship between the Respondent and the Complainant. The Panel concludes that the attempt to impersonate the Complainant and to offer apparently counterfeit goods is *per se* considered as evidence of bad faith.

Taking all facts of the case into consideration, the Panel believes that this is a typical cybersquatting case, which the UDRP was designed to stop. The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith and that the Complainant consequently has satisfied the third element of the Policy, namely, paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <delormesale.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: February 24, 2023